

APPENDIX

Paris Court of Appeal

10 november 1962

BANK, BANKER, RESPONSIBILITY, TRANSFER OF FUNDS ABROAD, ORDER, LATE EXECUTION, CURRENCY DEVALUATION

The bank which did not execute the order to transfer funds abroad with the necessary promptness, and which is not even able to say on which date it executed the transfer request, must repair the damage incurred by the client as a result of the late execution of the transfer more than a week after the issuance of the order, causing a loss in the foreign currency equivalent following the devaluation of the franc, which has taken place in the meantime.

To avoid the liability incurred, the bank must demonstrate that a quicker execution was absolutely impossible, or that the consequences the client is complaining about would also have occurred if it had acted with the necessary promptness.

Geproci against Banque française et italienne pour l'Amérique du Sud – Decision

95- A bank which receives a transfer order from one of its customers will only execute said order if there are sufficient funds available in the account. Otherwise, the bank shall inform its client of the impossibility in which she finds itself to follow its instructions. However, the legislator has not enacted any sanction comparable to the one inflicted for the issuance of bad checks. When the balance of the account allows the execution of the transfer, the banker must execute the transfer as quickly as possible, not only because a delay may result in a cash flow problem for the beneficiary, but also because an event may occur, such as the death of the principal rendering the execution of the transaction impossible.